

Board of Selectmen Meeting  
Tuesday, August 6, 2013  
Conference Room A, Town Hall

A meeting of the Rockport Board of Selectmen was held on Tuesday, August 6, 2013, in Conference Room A of Town Hall, present were Selectpersons Lucas, Murphy, Sheedy, and Wilkinson; Chairperson Battistelli was not present.

- 6:45 Executive Session – Real Property Selectperson Sheedy moved that the Board of Selectmen enter Executive Session under MGL Chapter 30A, §21(a) for Exception #6: to consider the purchase, exchange, lease or value of real property, roll call vote: Selectperson Lucas – aye, Selectperson Murphy – aye, Selectperson Sheedy – aye, Selectperson Wilkinson – aye.

Executive Session

Selectperson Murphy: “We are entering executive session because, by not doing so, it would be detrimental to the Town’s litigating position and we will reconvene in Open Session.”

- 7:00 Meeting Called to Order  
Pledge of Allegiance and Moment of Silence

Zenas Seppala announced that he is requesting to record this meeting; Chairperson Murphy indicated that was fine and thanked him for asking.

Approval of Minutes of July 23, 2013:

Selectperson Sheedy moved that the Board of Selectmen approve the minutes of July 23, 2013, Selectperson Lucas seconded, Vote: 3-0. Selectperson Wilkinson abstained as she was not present at the 7/23/13 meeting.

Approval of  
7/23/13 minutes  
Motion Approved

Interview of Lawrence Stepenuck for the Harbor Advisory Committee:

Selectperson Wilkinson moved to nominate Lawrence Stepenuck to the Harbor Advisory Committee for a 3-year term to expire on 6/30/15, Selectperson Sheedy seconded, the vote will be taken at the next meeting. He said that he has been on the Rights of Way Committee, the Planning Board, and the Traffic Committee in the past. He said he has lobstered and fished on Cape Ann for many years. He stated that he is primarily interested, at this time, due to the current status of the Tool Company property.

Interview of  
Lawrence  
Stepenuck for  
Harbor Advisory  
Committee, vote  
At next meeting

Public Comment Period: Toby Arsenian, 95 Granite Street, said he would like to speak when the Tool Company and Long Beach are on the agenda. He recommended that the Board of Selectmen convene a meeting with the Planning Board, the Harbor Advisory Committee, and the Conservation Commission to review the flood maps put forward by FEMA, to see if they are satisfactory. He said the maps can be appealed, though it takes some doing.

Public Comment  
Period

Selectperson Lucas stated when the maps are made larger it includes more property; it brings your property values down and increases your insurance rates when you’re in the flood zone.

Zenas Seppala, 92 Granite Street, said he attended the Board of Appeals meeting when they were discussing the Pharmacy proposal. He said three microphones were available at the meeting; one was at the podium if people used it. He continued that at tonight's Board of Selectmen meeting there are no microphones and those individuals speaking are not necessarily speaking loudly. He recommends that technology needs to be used to improve the audio and visual quality of town committees.

Town Administrator's  
Report

Town Administrator's Report: M. Vieira spoke about the Standard and Poor's bond issuance. He said the town received the results and short term Rockport received the highest rate possible, solid ratings were received for both short and long term. He continued that a Manager's Meeting is being held on Thursday afternoon to review the warrant articles and discuss the employee performance review process. He continued that they've concluded the layout for the town-wide procurement policy; it includes thresholds for quotes, bids, etc. He stated he is looking for some direction from the Board of Selectmen on the plowing of private roads; this has been discussed for some time now. He concluded that the more information is needed before we can make a final decision on the Master Building Plan.

Selectmen Updates &  
Liaison Reports

Selectmen Updates and Liaison Reports: Selectperson Lucas said she is looking into bringing swimming lessons back at Rockport beaches. She said a class of 10 people is approximately \$75/person; that includes two half hour lessons per week.

Selectperson Murphy stated that Robert Liebow/School Superintendent informed him that only two eighth grade students will be leaving the Rockport School system this year, last year it was approximately 12 students, so this is good news.

Selectperson Murphy stated we are all set for first Fireworks Display at the LobsterFest.

7:25 Action List

Action List:

Close FTM Warrant:

Close Fall Town  
Meeting Warrant  
Motion Approved

Selectperson Lucas moved that the Board of Selectmen close the Warrant for the September 9, 2013 Fall Town Meeting, Selectperson Sheedy seconded, Vote: 4-0.

Approval of BAN  
Issuance for \$2.92M  
Motion Approved

Approval of BAN Issuance for \$2.92M: Selectperson Sheedy moved Approval of BAN Issuance: Selectperson Wilkinson seconded, Vote: 4-0. Selectperson Sheedy stated "I move that the Board of Selectmen approve the sale of the \$2,635,200 1.00 percent General Obligation Bond Anticipation Notes of the Town dated August 9, 2013 and payable on June 20, 2014, to Eastern Bank at a price of par and accrued interest, if any, plus a premium of \$15,730.75;

And further, that in connection with the marketing and sale of the Notes, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated July 24, 2013 as amended, and a final Official Statement dated July 31, 2013, each in such form as may be approved by the Town Treasurer, be, and hereby are, ratified, confirmed, approved and adopted;

And further, that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town which undertaking shall be incorporated by reference in the Notes, as applicable, for the benefit of the holders of the Notes from time to time;

And further, that we authorize and direct the Town Treasurer to establish post issuance federal tax compliance procedures in such form as the Town Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax exempt status of the Notes; and further, that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be, and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts of other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

Federal Excess Property/DoD Firefighting Program Agreements: Selectperson Wilkinson moved that the Selectmen approve and sign the Federal Excess Personal Property Cooperative Agreement and the Department of Defense Firefighting Program Cooperative Agreement for the Rockport Fire Department, Selectperson Sheedy seconded, Vote: 4-0.

Federal Excess  
Property/DOD  
Firefighting  
Program  
Agreements  
Motion Approved

Nomination of Suzanne Blake to the Council on Aging: Selectperson Lucas nominated Suzanne Blake as a member of the Council on Aging for a three year term to expire on June 30, 2016, Selectperson Sheedy seconded, Vote: 4-0.

Nomination of  
Suzanne Blake to  
Council on Aging  
Motion Approved

Request for Hiring Approval – Library Substitute Custodian: Selectperson Sheedy moved that the Selectmen approve the hiring of a Library Substitute Custodian to be scheduled on as needed basis, Selectperson Lucas seconded, Vote: 4-0.

Request for Hiring  
Approval – Library  
Substitute  
Custodian  
Motion Approved

Change of Date for Scuba Diving Lessons Permission - Boston Scuba: Selectperson Wilkinson moved that the Board of Selectmen change the date of permission for the North Shore Frogmen Club to hold a night dive on Pebble Beach on August 22, 2013, Selectperson Sheedy seconded, Vote: 4-0.

Change of Date  
for Scuba Diving  
Lessons  
Permission  
Motion Approved

Community House Rules & Information:

Selectperson Lucas moved that the Selectmen adopt the Community House Rules, as amended, dated July 23, 2013, as amended in the meeting, Selectperson Wilkinson seconded, Vote: 4-0.

Community House  
Rules &  
Information  
Motion Approved

Selectperson Lucas stated that the job description is part of the rules and should be removed. Selectperson Wilkinson said that it should state that you can come

Action List:

Continued

back the next morning to pick up some items. Selectperson Sheedy said it is a footnote that you may be able to return the next morning to remove decorations from the prior day. It was decided to add that outside grilling can be approved on a case-by-case basis. Since the last meeting we decided to circulate the rules to interested parties to seek their comments. It was decided to change the rules that self-catering is permitted and include that caterers not previously used must be approved. They reviewed the data on the past use of the building (137 over the last year); two times per week on average. It was clarified that this usage doesn't include municipal use.

Community House  
Facility Manager

Postponed to  
subsequent meeting

Community House Facility Manager:

Selectperson Sheedy moved that the Selectmen approve a new part-time stipend position of Community House Facilities Manager as described in the job description of July 23, 2013, Selectperson Wilkinson seconded, Vote: . J. Gardner from the DPW Commissioners had sent an e-mail regarding this position reporting to the DPW. He said the DPW Commissioners reviewed this and they are not in favor of this. He said this position oversees and enforces the regulations set forth by the Board of Selectmen. The Town Administrator said that many rules and regulations are developed by the Board of Selectmen but the enforcement doesn't remain with the Board of Selectmen. Selectperson Murphy is not in favor of the Board of Selectmen supervising this position. Selectperson Wilkinson is in favor of the Board of Selectmen managing this. Selectperson Sheedy sees both points of view but is in favor of the Board of Selectmen supervising this position. DPW Chairman Gardner said this position is responsible for enforcing the rules and charging the surcharge if individuals go over their scheduled time limit. He questions how this part time position is supposed to manage this building 24 hrs/day. Selectperson Lucas said it seems that because the DPW may not agree with the rules and didn't set the rules, they don't want to manage this position. This will be postponed until the next meeting when Chairperson Battistelli can be present for discussion, no vote taken.

Request for Real  
Estate Signs on Town  
Property

Motion Approved

Request for Real Estate Signs on Town Property: Selectperson Wilkinson moved that the Selectmen approve the placement of two "For Sale" signs at the corner of Granite Street and Squam Road, Selectperson Lucas seconded, Vote: 3-0. Selectperson Sheedy is recusing herself as she represents the applicant. Michael McKearney is involved in the renovation of a piece of property on Squam Hill Court. They would like to put it on the market but it's tucked away and they're looking for more notice by traffic. Selectperson Lucas inquired if the applicant knows of anyone who is opposed to this. M. McCarren said that he had a sign there and it was removed so he does suspect that someone had an issue with this. He reported the missing sign to the police and they advised that he needed to come before the Board of Selectmen to obtain permission for this.

Selectperson Wilkinson moved that the Real Estate signs at the corner of Granite Street and Squam Road be placed starting tomorrow for a period of 60 days, Selectperson Lucas seconded, Vote: 3-0. Selectperson Sheedy abstained.

8:00 Selectmen Hearing

Carole O'Leary, 24 Penzance Road re: Conservation Commission:

Selectperson Murphy stated he'd like to remind everyone that disrespectful statements or behavior is never tolerated during these hearings. C. O'Leary stated that she is here to present her perspective. She stated her husband is a semi-invalid and this event negatively impacted his health condition.

Carole O'Leary, 24  
Penzance Road  
Conservation  
Commission

- The process is bewildering, well intentioned citizens new to Rockport are unaware of process.
- She had a good working relationship with G. Falco and P. Orlando.
- A permit can be issued but it doesn't necessarily allow you to proceed.
- She proposes a law that if you buy in Rockport there is a sheet informing individuals of all the issues – particularly in wetlands.
- She stated that the tone and inappropriate comments at their first meeting with the Conservation Commissioner is the reason they are here. She said they were rude to her husband and questions if the purpose of the process is it punitive punishment or protection of the environment.
- They were planning to build a lean-to over an existing drive-way further from wetlands than two existing structures currently on the property. She said that they offered options to reduce any negative environmental impact, and spent thousands of dollars for work only to have the project rejected.
- She stated that G. Falco visited the property to inspect it before the Commissioners, she said she believed from G. Falco's visit that the project was a doable thing (she stated she doesn't wish to put words in G. Falco's mouth).
- A neighbor reported them without notifying them.
- She questions what the scientific degrees are for those on the Conservation Commission.
- She questions who chooses these individuals and if their backgrounds are verified.
- She said a public safety hazard was proposed when they were being "pushed" to move propane tanks directly next to the house and furnace. She said they received confirmation that this would create a safety hazard.
- She said the information they received to confirm it would be a safety hazard was challenged.

Selectperson Lucas inquired about her statement that a building permit doesn't provide permission to begin. C. O'Leary said they didn't know they needed a permit. She said the building inspector visited and asked the applicant to draw the structure and complete a form. He sent it on to the Conservation Commission. She felt the real estate professionals should have advised them of the requirements when someone is purchasing a home in or near wetlands.

Selectperson Murphy said the Conservation Commission deals with difficult issues with a lot of emotion. He requested specific examples of the disrespectful behavior of the Conservation Commission members. C. O'Leary stated that one member of the Conservation Commission commented how hard the Commission works and the low to no pay they receive to sit on the commission. Selectperson Murphy said he still isn't hearing rude or disrespectful comments or behavior.

L. Neal, Conservation Commission Chair and G. Falco, Conservation Agent, spoke on behalf of the Conservation Commission.

G. Falco said she explained the law to C. O'Leary. She said she was told about their desire to install a car port, she was not aware that it had already been installed. When G. Falco visited the property she saw that the car port was in process. When the applicant attended the Conservation Commission meeting, questions were asked. She stated that all building should be built away from the wetlands; they were informed that they would have to take it down. It started as a car port, then they spoke about the tanks being filled during the winter and they needed an area where there was no snow for the refilling of the tanks. One discussion was removing the sheds away from the wetlands, ultimately it was decided that the car port needed to be removed.

L. Neal said we do have a system that anything that goes before the building inspector is directed to other applicable town boards. The main issue at the hearing, as he recalls it, was the propane tanks. He said the applicant indicated that it was fairly expensive to move the propane tanks. He concluded that there were many violations by prior owners.

G. Falco said the Conservation Commission requested an Order of Conditions and issued an Enforcement Order to remove the structure.

C. O'Leary said G. Falco misspoke, she said she never presented the project as though it hadn't been started; she said they never misrepresented anything.

Ms. Micozzi, 24 Penzance, stated that she does not believe it is fair to hold new building owners accountable for what prior owners have done. She continued that the run off of rainwater falls onto gravel; she continued that it would go through a lot of filters before it gets into the wetlands.

Charles Allen, Conservation Commission member, said at the first meeting the project was to be a roofed walkway for access to propane tanks, the permit said it was a carport. At the last meeting, the applicant's Attorney said they wished to enclose the structure so they could add shelving.

Selectperson Wilkinson said it's unfortunate when something gets to this level. She said the Board of Selectmen appoints the Conservation Commission members and they have faith in their abilities. She has been on this board for seven years, and 99.9% of the time they hear praise for their work. A huge part of this is miscommunication; more information is always better. She stated that if the applicants perceived anything in a negative fashion, Selectperson Wilkinson apologized. She said we probably need to do a better job working with realtors.

## 8:10 Discussion Items

Cape Ann Tool Company: T. Arsenian spoke about the easements for the drainage structures that go across the property. He stated that they were to be

a condition of Site Plan Review for the prior proposal. He stated that now there is no means for the drainage easements; he stated that this is concerning.

Cape Ann Tool  
Company  
Continued

T. Tarr said the original proposal said that the owner would maintain, and keep in good repair, the smoke stack. During the site review process (hearings, etc.) that was never subject to a hearing. Selectperson Wilkinson stated that this was not a concern for the Board of Selectmen at this time.

Long Beach Facts & Considerations: A public forum is being held in the Brenner Friend's Room at the library on Thursday, 8/15/13 at 7pm. T. Arsenian requested that the new flood maps be available at the Long Beach forum. The Town Administrator said the purpose of the forum was to receive information from the public on their wishes for Long Beach. Selectperson Sheedy stated that because the leases are coming up for renewal, the forum is seeking public input.

Long Beach Facts  
& Considerations

Other Business/Announcements: Selectperson Murphy alerted the Board of Selectmen that significant others are invited at the reception at the old Carnegie Library.

Other Business/  
Announcements

9:35 Selectperson Lucas moved to adjourn, seconded by Selectperson Sheedy, Vote: 4-0.

Warrant signed:

Warrant signed for the Fiscal Year 2013 Payroll and Expenses for the week of 8/8/13 in the amounts of \$185,926.86 and \$714,965.86 respectively

Items Signed:

Federal Excess Property/DoD Firefighting Program Agreements

Change of Date for Scuba Diving Lessons Permission

BAN Issuance for \$2.92M

Fall Town Meeting Warrant